

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

AMAZON.COM SERVICES LLC

Employer

and

Case 10-RC-269250

**RETAIL, WHOLESALE AND DEPARTMENT
STORE UNION**

Petitioner

**ORDER DIRECTING HEARING AND
NOTICE OF HEARING ON OBJECTIONS**

Based on a petition filed on November 20, 2020, and pursuant to a Decision and Direction of Election, a mail ballot election commenced on February 8, 2021, to determine whether a unit of employees of Amazon.com Services LLC (the Employer) wish to be represented for purposes of collective bargaining by Retail, Wholesale and Department Store Union (the Petitioner or the Union). That voting unit consists of:

All hourly full-time and regular part-time fulfillment associates, seasonal fulfillment associates, lead fulfillment associates, process assistants, learning coordinators, learning trainers, amnesty trainers, PIT trainers, AR quarterbacks, material handlers, hazardous waste coordinators, sortation associates, WHS specialists, onsite medical representatives, data analysts, dock clerks, transportation associates, interim transportation associates, transportation operations management support specialists, field transportation leads, seasonal learning trainers, seasonal safety coordinators, seasonal process assistants, and warehouse associates (temporary) employed by the Employer at its Bessemer, AL facility; excluding all truck drivers, office clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees, loss prevention specialists, guards, and supervisors as defined by the Act.

The tally of ballots prepared at the conclusion of the election ballot count and issued on the parties on April 9, 2021, shows that of the approximately 5,867 eligible voters, 738 votes were cast for and 1,798 votes were cast against the Union, with 505 challenged ballots, a number that is not sufficient to affect the results of the election.

THE OBJECTIONS

On April 16, 2021, the Union filed timely objections to conduct affecting the results of the election. A copy of the objections is attached to this Order. The Union alleges the incidents described in the objections occurred during the critical period¹ and throughout the election.

In general, the Employer denies it engaged in any objectionable conduct. The Employer asserts that even if the Union could prove the alleged conduct occurred, it did not interfere with the free choice of employees to such a degree it materially affected the results of the election.

Objections 1, 2, 3, 4, 5, 6, 7, and 17

In these interrelated objections, the Union alleges the Employer had a collection box (a mailbox) installed in the employee parking lot in a location exclusively selected by the Employer without authorization from the Regional Director and in contravention to the January 15, 2021, Decision and Direction of Election (“DDE”).

In summary, the Union alleges in **Objection 1** that the installation of the collection box created the impression that the collection box was a polling location and that the Employer had control over the conduct of the mail ballot election. In **Objection 2**, the Union alleges this interfered with the Board’s exclusive control over the election.

Additionally, the Union alleges the Employer maintains security cameras in the employee parking lot and such cameras could record the employees entering and exiting the tent erected around the collection box. In **Objection 3**, the Union alleges this created the impression of surveillance of the collection box. In **Objection 4**, the Union alleges the security cameras created the impression the Employer was recording the identity of employees who voted.

In **Objection 5**, the Union alleges the Employer engaged in polling by urging employees to bring their ballots to work and to use the collection box to vote and then observed which employees complied by entering and exiting the tent around the collection box. The Union alleges the Employer’s tracking and polling of eligible voters created the impression that the secrecy of the ballot was compromised.

In **Objection 6**, the Union alleges the Employer electioneered near the collection box because the tent around the collection box had a central campaign message (“Speak for yourself”) from the Employer printed on at least one side of the tent. The Union alleges this corresponds with a mass text the Employer sent employees on about January 4, 2021, titled “Don’t Give Up Your Voice.”

In **Objection 7**, the Union alleges the Employer’s agents engaged in a campaign to pressure and/or coerce employees into bringing their mail ballots to work and to use the collection box the Employer had installed. The Union alleges this conduct interfered with employees’ free exercise of the right to vote and/or constituted a form of ballot solicitation

¹ As a general rule, the Board only considers as potentially objectionable conduct that which occurs during the “critical period,” which is defined as the period between the date of the filing of the petition and the date of the election. *Ideal Electric Mfg. Co.*, 134 NLRB 1275 (1961).

and/or harvesting. The Union also alleges such conduct destroyed the requisite laboratory conditions for an election by creating doubt regarding, and possibly in fact compromising, the secrecy of the ballot.

In **Objection 17**, the Union alleges the Employer's agents circulated a rumor prior to the date set for the mailing of ballots that a collection box would be installed for the benefit of employees. The Union informed employees the Regional DDE did not authorize a collection box at the facility even though the Employer requested one. The Employer's subsequent installation of the collection box undermined the Union's message, and the Employer's text message announcing the installation of the collection box created the impression among employees that the Employer had the power to override the DDE and confer a "benefit." The Union alleges the Employer's actions were done for the purpose of influencing the outcome of the election and was reasonably calculated to have that effect.

In support of its contentions, the Union intends to introduce documentary evidence and witness testimony from a Union organizer and employees.

The Employer denies that USPS's installation of a mailbox at the facility is objectionable conduct.

I find that Objections 1 through 7 and 17 raise substantial and material issues of fact, which can best be resolved by a hearing.

Objection 8

In Objection 8, the Union alleges that, during group meetings in January and February 2021, and during other conversations that occurred during the critical period, the Employer, by and through its agents, unlawfully threatened employees with the loss of business at the warehouse/fulfillment center if employees voted for the Union. The Union alleges that on about March 24, 2021, the Employer emailed employees with the message that because of the Union, the Employer would have to lay off 75 percent of the petitioned-for unit. The Union alleges the Employer's agents also threatened employees that the Employer would close the warehouse if the Union were voted in. The Union alleges this interfered with employees' rights to a free and fair election. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 8 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 9

In Objection 9, the Union alleges that since January 2021, the Employer's agents solicited grievances from employees and offered to resolve these grievances. The Union alleges the Employer's agents questioned employees as to what they would like to see improved at the facility and how the Employer could address their concerns. The Union also alleges that in about January or February 2021, the Employer set up the "Black Employee Network" as a way of soliciting grievances from Black employees. Prior to the organizing campaign, the Employer's

agents did not seek input from employees or solicit grievances. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 9 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 10

In Objection 10, the Union alleges that, starting in January 2021, during group meetings, captive audience meetings, and also individually, the Employer's agents threatened employees with the loss of benefits and/or pay if the Union were voted in. The Union alleges the Employer's agents threatened employees that they don't want to risk losing their health insurance benefits, paid leave and/or other benefits by voting in the Union and that they should vote no to "protect" what they have and that the Union could not obtain anything in addition to what the Employer already provided them. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 10 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 11

In Objection 11, the Union alleges the Employer's agents engaged in an extensive campaign of polling employees and/or interrogating them with respect to their support for the Union and thus, interfering with their rights to an election free of coercion and interference. The Union alleges some incidents involved distributing anti-union paraphernalia to employees as a means of polling employees. The Union also alleges some incidents involved asking employees if they had voted, how they will vote, or which way they were leaning. In support of its contentions, the Union intends to introduce documentary evidence and witness testimony from employees.

I find that Objection 11 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 12

In Objection 12, the Union alleges that the Employer removed employees from captive audience meetings who asked questions about the information presented. The Union alleges the agents requested the employees come forward, identified them, and removed them from the meeting in the presence of hundreds of other employees. The Union alleges this interfered with and/or chilled the right of employees to freely discuss issues related to the union organizing campaign and/or the terms and conditions of employment. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 12 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 13

In Objection 13, the Union alleges the Employer's agents disparately enforced its social distancing policy and interfered with employees supporting the Union from discussing the union organizing campaign. The Union alleges the Employer permitted its agents and employees classified as process assistants to walk the facility and visit individual employee stations during working time to discuss voting against the Union. The Union alleges, however, the Employer would discourage or caution employees supporting the Union from talking about the Union during working time. The Union also alleges the Employer moved employees who it believed supported the Union into positions that limited their contact with coworkers during working hours. The Union alleges this conduct interfered with the rights to an election free of coercion and interference. In support of its contentions, the Union intends to introduce documentary evidence and witness testimony from employees.

I find that Objection 13 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objections 14 and 15

In **Objection 14**, the Union alleges the Employer interfered with the ability of employees to communicate with Union organizers as they left the employee parking lot. The Employer pressured government officials into changing the timing on a traffic light so as to interfere with efforts by organizers to handbill and/or communicate with employees as they left the facility. In **Objection 15**, the Union alleges the Employer, acting through local government officials, unilaterally changed policies governing employees exiting the workplace in order to limit the Union's ability to communicate with those employees. In support of its contentions, the Union intends to introduce documentary evidence and witness testimony.

The Employer generally denies these allegations and asserts that Jefferson County, not the Employer, made the routine decision to recalibrate the traffic signal and this action does not constitute objectionable conduct.

I find that Objections 14 and 15 raise substantial and material issues of fact, which can best be resolved by a hearing.

Objection 16

In Objection 16, the Union alleges the Employer introduced a severance program known as "the Offer" during the critical period prior to the election. The program communicated the message during an organizing drive that the Employer would pay disgruntled or unhappy employees to leave, if they also agreed never to seek re-employment with the Employer. The Offer not only constituted a benefit granted during an organizing campaign with the purpose of influencing employees' vote, but it is a threat wrapped as a benefit in violation of an employee's right to be free from intimidation and coercion and the right to vote on the question of representation in an environment free from coercion and undue interference. In support of its contentions, the Union intends to introduce documentary evidence and witness testimony from employees.

The Employer denies that “the Offer” constitutes objectionable conduct.

I find that Objection 16 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 18

In Objection 18, the Union alleges that, in January and February 2021, the Employer’s agents told employees in mandatory meetings and afterwards that the Union will go on strike and that employees will lose money. The Union alleges the Employer’s prediction of a strike was a coercive threat of loss of pay and intended to influence the outcome of the election. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 18 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 19

In Objection 19, the Union alleges that, by text message, group meetings, and one-on-one conversations, the Employer’s agents threatened employees that they would lose access to their supervisor and that supervisor would not be able to help them individually if the Union was voted in thereby interfering with a free and fair election. In support of its contentions, the Union intends to introduce documentary evidence and witness testimony from employees.

I find that Objection 19 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 20

In Objection 20, the Union alleges that, in (b) (6), (b) (7)(C) 2021, the Employer interrogated an employee about his/her union activity and terminated a Union supporter for passing out union authorization cards in non-working areas. The employee’s discharge for passing out union cards was disseminated in the warehouse and had a chilling effect on support for the Union. In support of its contentions, the Union intends to introduce witness testimony from employees and Union organizers.

I find that Objection 20, to the extent that it alleges interrogation, raises substantial and material issues of fact, which can best be resolved by a hearing.

The other portion of Objection 20 alleges a termination in retaliation for union activity. The gravamen of this allegation would require a finding that the Employer violated Section 8(a)(3) of the Act. Such allegations must be decided in an unfair labor practice proceeding, and the Union has filed an unfair labor practice charge on April 23, 2021, in Case 10-CA-276082

about this termination. I have concluded this portion of Objection 20 should be held in abeyance.²

Objection 21

In Objection 21, the Union alleges that in (b) (6), (b) (7)(C) 2021, the Employer disciplined an outspoken supporter of the Union because (b) (6) challenged management and/or consultants during mandatory meetings, which had a chilling effect on other employees. In support of its contentions, the Union intends to introduce witness testimony from employees.

The gravamen of this allegation would require a finding that the Employer violated Section 8(a)(3) of the Act. Thus, I have concluded that Objection 21, which is also alleged as a Section 8(a)(3) violation in an unfair labor practice charge in Case 10-CA-276082 should also be held in abeyance. *Texas Meat Packers*, 130 NLRB 279 (1961).

Objection 22

In Objection 22, the Union alleges that during the critical period the Employer provided employees with a pay increase, gave away merchandise to employees, created an employee review board, and/or relaxed enforcement of work rules thereby interfering with the right of employees to a free and fair election. In support of its contentions, the Union intends to introduce witness testimony from employees.

I find that Objection 22 raises substantial and material issues of fact, which can best be resolved by a hearing.

Objection 23

In Objection 23, the Employer hired police officers to patrol the parking lot and observe the conduct of employees and Union organizers. The constant presence of police officers created an atmosphere of coercion and intimidation thereby interfering with the right of employees to a free and fair election. In support of its contentions, the Union intends to introduce witness testimony from employees and Union organizers.

The Employer denies that it hired local police to intimidate or interfere with union campaign activity.

I find that Objection 23 raises substantial and material issues of fact, which can best be resolved by a hearing.

CONCLUSION AND ORDER

Regarding **Objections 1 through 19, 22 and 23, and part of Objection 20**, I have concluded that the evidence submitted by the Union in support of its objections could be grounds for overturning the election if introduced at a hearing. Accordingly, in accordance with Section

² A hearing officer does not have the authority to hear and decide unfair labor practice allegations in a representation proceeding. *Texas Meat Packers*, 130 NLRB 279 (1961).

102.69(c)(1)(ii) of the Board's Rules and Regulations, IT IS ORDERED that a hearing shall be held before a Hearing Officer designated by me, for the purpose of receiving evidence to resolve the issues raised by the objections. At the hearing, the parties will have the right to appear in person to give testimony, and to examine and cross-examine witnesses.

Upon the conclusion of the hearing, the Hearing Officer shall submit to me and serve on the parties a report containing resolutions of the credibility of witnesses, findings of fact and recommendations as to the disposition of Objections 1 through 19, 22 and 23, and part of Objection 20.

I have concluded that **Objection 20 in part and Objection 21**, which allege discharge and discipline of certain employees, will be held in abeyance because these objections are related to the pending unfair labor practice charge in Case 10-CA-276082, which raises related Section 8(a)(3) allegations. Moreover, if the Hearing Officer finds any of the other objections are grounds for overturning the election, then it will be unnecessary to determine if that portion of Objection 20 and/or Objection 21 are grounds for overturning the election. Thus, Objection 20, in part, and Objection 21 shall be held in abeyance pending the outcome of the hearing on the remaining objections.

NOTICE OF HEARING

Starting at **10:00 AM Central Time on Friday, May 7, 2021, via videoconference**, the hearing on objections as summarized above will be conducted before a Hearing Officer of the National Labor Relations Board. The hearing will continue on consecutive business days thereafter until completed unless I determine that extraordinary circumstances warrant otherwise.

Dated: April 26, 2021



Lisa Y. Henderson
Acting Regional Director
National Labor Relations Board
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**AFFIDAVIT OF SERVICE OF: Order Directing Hearing and Notice of Hearing on
Objections, dated April 26, 20201.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on April 26, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

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Date

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Designated Agent of NLRB

Name

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Signature